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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALEXANDRA SHERMAN

Plaintiff,

v.

NCSPLUS INCORPORATED

Defendant.

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Case No. 2:23-cv-1411-RFB-MDC

RESPONSE TO ORDER TO SHOW CAUSE

Comes now Alexandra Sherman (“Ms. Sherman” or the “Plaintiff”), by and through undersigned counsel, and in response to this Honorable Court’s Order to Show Cause, DE #8, states as follows:

Ms. Sherman timely effectuated service of the summons and complaint herein, DE #7, and undersigned counsel was shortly thereafter contacted by counsel representing the defendant herein (the “Defendant”). As indicated in a Request for Clerk’s Default, DE #9, filed of even date herewith, various procedural discussions have since been had between counsel.

Insofar as “[a] default judgment is generally disfavored because ‘[c]ases should be decided upon their merits whenever reasonably possible,’” *LHF Prods., Inc. v. Boughton*, 299 F. Supp. 3d 1104, 1113 (D. Nev. 2017), Ms. Sherman has previously resisted moving for entry of a clerk’s

1 default. And, as noted in her request of even date herewith, she will not oppose vacating any
2 ensuing default if an answer is filed in the coming week. However, she is equally cognizant that
3 this case does need to progress, and she has thusly filed her request for such a default.

4 Ms. Sherman has not, however, been dilatory in her prosecution of this suit. Service was
5 timely accomplished. Had counsel for the Defendant not made contact shortly thereafter, a default
6 would have long ago been sought. The delays herein have accordingly not been borne of Ms.
7 Sherman's failure to prosecute, Fed. R. Civ. P. 41(b), but, rather, of the logistical realities
8 correlative to knowing the Defendant is represented by counsel and knowing the Defendant is
9 thusly quite likely to defend this case. This is particularly true in light of the governing ethical
10 rules, which encourage affording opportunities to respond on the merits when it is known the
11 other party is represented by counsel. Nev. R. Prof. Conduct 3.5A.

12 WHEREFORE, Ms. Sherman respectfully prays this Honorable Court discharge the Order
13 to Show Cause and afford such other and further relief as may be just and proper.

14 Respectfully submitted,

15 /s/ Maurice B. VerStandig
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24 *Counsel for Ms. Sherman*

25 *[Certificate of Service on Following Page]*

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2024, a copy of the foregoing was sent, via
US Mail, postage prepaid, to:

NCSPlus Incorporated
c/o Registered Agents, Inc.
401 Ryland Street
Suite 200 A
Reno, Nevada 89502

and

Chad C. Butterfield, Esq.
Wilson, Elser, Moskowitz,
Edelman & Dicker LLP
6689 Las Vegas Blvd. South, Suite 200
Las Vegas, NV 89119

/s/ Maurice B. VerStandig
Maurice B. VerStandig